

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID LAWRENCE HENDERSON,

Petitioner,

v.

JEFFREY A. UTTECHT,

Respondent.

No. 21-5009-RJB-MLP

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

This matter comes before the Court on the Report and Recommendation of Magistrate Judge Michelle L. Peterson (Dkt. 4) and Petitioner's "Joinder and Motion to Show Cause" (Dkt. 6). The Court has considered the Report and Recommendation, the Petitioner's objections, and remaining record.

Petitioner objects to the dismissal, without prejudice, of his habeas corpus petition for failure to exhaust state court remedies, asserting that he is not required to do so because the U.S. Constitution is the "supreme law of the land." Dkt. 5. As stated in the Report and Recommendation, his assertions are meritless. The Report and Recommendation (Dkt. 4) should be adopted, the petition dismissed without prejudice, and a certificate of appealability should be denied. All pending motions should be stricken as moot.

It is **ORDERED** that:

- (1) The Court adopts the Report and Recommendation (Dkt. 4);

- (2) Petitioner's federal habeas Petition is dismissed without prejudice;
- (3) A certificate of appealability is denied in this case;
- (4) All pending motions are denied as moot.
- (5) The Clerk is directed to send copies of this Order to Petitioner, counsel for Respondent, and to the Hon. Michelle L. Peterson.

DATED this 22nd day of March, 2021.

A handwritten signature in black ink, reading "Robert J. Bryan", written over a horizontal line.

ROBERT J. BRYAN
United States District Judge